

Dear Sen. Gaffey, Rep. Fleischmann, and Members of the Education Committee,

I am writing to object to the provision in Proposed Bill #HB 5425 that establishes that the burden of proof lies with the party requesting a special education hearing. The current law states that the burden of proof is the responsibility of the school district to prove it has provided a "Free, Appropriate, Public Education" (FAPE) through the Individual Education Plan (IEP). The current law reflects well-settled Connecticut policy. The current law makes good sense because the school districts are in control of the records, staff, the experts, and have unlimited access to all the information about the program they are providing. They can use their own staff as expert witnesses. Compare the schools to the parents, who often can't even understand the jargon used at the IEP meetings. This is a huge imbalance of power; the districts are in a far better position to defend the programs they deliver, as opposed to the parent to prove that the program is inappropriate. How would the proposed change affect parents who have children with disabilities in Connecticut? It stacks the deck more heavily in favor of school districts.

Historically, the majority of hearings reviewing the delivery of special education services to students with disabilities, our most vulnerable population, are already decided in favor of the school districts. This bill proposes a drastic 180 degree change of the burden of proof in special education due process cases. It would make due process hearings excessively costly and would be an insurmountable challenge for parents, creating a situation in which the families could not have a fair hearing with any reasonable chance of prevailing.

I will tell you that my 11 year-old with Down syndrome is a successful student today because the burden of proof has been on the school district up to this point. My district has tried to deny my daughter a chance to participate along with her peers in CMTs, has tried to deny her comprehensive reading evaluations and improved reading instruction and has also tried to force her to take needless evaluations and tests. We have only been able to maintain her Free Appropriate Public Education because the school district knows that today the burden of proof is theirs. I will tell you that I have lost track of the number of times someone on the school district has told us they are amazed at how much my daughter has accomplished. Ideally, school people would stop being amazed by how much my daughter has benefited by them doing more than they had thought was necessary. Sadly that day is still a ways off. I do know that without the school districts owning the burden of proof my daughter's school experiences would have been much more limited and she would have much fewer opportunities in school and later in life.

Thank you,
Chris McAuliffe
18 Kellogg St
Windsor, CT 06095
mack1200@comcast.net
860-683-2535